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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,827	01/11/2002	Tomoaki Kurosawa	270/164	8082
34313	7590	12/06/2006	EXAMINER	
ORRICK, HERRINGTON & SUTCLIFFE, LLP			CHANKONG, DOHM	
IP PROSECUTION DEPARTMENT			ART UNIT	PAPER NUMBER
4 PARK PLAZA			2152	
SUITE 1600				
IRVINE, CA 92614-2558				
DATE MAILED: 12/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/044,827	KUROSAWA ET AL.	
	Examiner Dohm Chankong	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 October 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 35-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 35-40 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/17/06.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

- 1> This action is in response to Applicant's amendment, filed 10.11.2006. Claims 30-34 are cancelled. Claims 35-40 are added. Claims 35-40 are presented for further examination.
- 2> This is a final rejection.

Response to Arguments

- 3> Applicant's arguments with respect to claims 35-40 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 4> Claims 35 are rejected under 35 U.S.C §103(a) as being unpatentable over Gayman, U.S Patent No. 6.256.673, in view of Almeroth et al, "Scalable delivery of web pages using Cyclic Best-Effort Multicast" ["Almeroth"].

- 5> As to claim 1, Gayman discloses an apparatus comprising:
a first information receiving apparatus [Figure 9 : 1st client];

a second information receiving apparatus [Figure 9 : 2nd client];

an information transmitting apparatus in communication with the first and second information receiving apparatus via a network [Figure 5 : server], the information transmitting apparatus being arranged and constructed to:

(1) transmit via the network two or more blocks of data subdivided from a designated information for the first information receiving apparatus in response to receiving a request to transmit the designated information from the first information receiving apparatus [Figures 5-9];

(2) transmit via the network one or more blocks of data that have not yet been transmitted to the first information receiving apparatus and second information receiving apparatus, in response to receiving a request to transmit the designated information from the second information receiving apparatus prior to transmitting all blocks of data, which contain the designated information, to the first information receiving apparatus [Figure 6 «items 606, 608, 610» | Figure 9]; and

(3) transmit via the network one or more blocks of data already transmitted to the first information receiving apparatus, wherein the first and second information receiving apparatus are further arranged and constructed to send the request to transmit the designated information to the information transmitting apparatus [Figure 6 «item 602»], receive blocks of data via the network [Figure 8], and store the received blocks of data in a storage device [column 11 «lines 59-67»],

wherein the information transmitting apparatus is arranged and constructed to cyclically transmit the blocks of data subdivided from the designated information apparatus

in a predetermined sequence [Figures 7-9 : sequence 1, 2, 3, 4], when the information transmitting apparatus receives another request to transmit the designated information from another information receiving apparatus prior to transmitting all blocks of data subdivided from the designated information [Figures 7-9 | column II «lines 14-58»].

Gayman does not expressly disclose that each of the first and second information receiving apparatuses have a first and second group address.

6> In the same field of invention, Almeroth is directed towards providing cyclic multicasting to multiple multicast groups [pg. 1215, §3 "Cyclic Multicast" : "The engine is capable of delivering multiple web pages simultaneously using *multiple* multicast groups" (italics provided). Almeroth goes on to disclose that each of these groups has a group address [pg. 1215, §3.2 "Multicast Address Determination"]. It can be inferred from Almeroth's disclosure that each of these groups will have a different group address.

Therefore, it would have been obvious to one of ordinary skill in the art to incorporate Almeroth's teachings into Gayman's cyclic multicast system to enable simultaneous delivery of data to multiple multicast groups. One skilled in the art would have been motivated to combine the references given the improvement provided to Gayman's methods by Almeroth's use of multiple group addresses for clients for the performance enhancements that are derived from Almeroth's invention [pgs. 1218-1219, §5.3.2 "Performance of Integrated Servers"].

7> As to claim 36, Gayman discloses the first information receiving apparatus is arranged and constructed to transmit a request to retransmit a block of data to the information transmitting apparatus, and the information transmitting apparatus is arranged and constructed to retransmit the requested block of data to the information receiving apparatus upon receiving the request to retransmit, the first information receiving apparatus being further arranged and constructed to receive and store the retransmitted block of data from the information transmitting apparatus [column 10 «lines 50-67»].

8> As to claim 38, it contains substantially similar limitations that were rejected in claim 35. Gayman discloses the only new limitation found in claim 38.

Gayman discloses wherein each of the first and second information receiving apparatus is further arranged and constructed to receive the blocks of data subdivided from the designated information, based on the total number of blocks [column 8 «line 54» to column 9 «line 27»].

9> As to claim 39, Gayman discloses the information transmitting apparatus receives the information transmitting request from the first or second information receiving apparatus, the information transmitting apparatus transmits the number of the blocks of data subdivided from the designated information to the first or second information receiving apparatus that has transmitted the information request [Figure 6].

10> As to claim 40, Gayman discloses the information transmitting apparatus is further arranged and constructed to transmit a subdivision sequence information of each block of data, and each of the first and second information receiving apparatus receives the blocks of data according to the subdivision sequence information [Figure 9 : sequence of transmitting packet 1, then packet 2, then packet 3 then packet 4].

11> Claim 37 is rejected under 35 U.S.C §103(a) as being unpatentable over Gayman and Almeroth, in further view of Applicant's Admitted Prior Art ["admitted art"].

12> As to claim 37, Gayman does not expressly disclose evaluating bandwidth utilization. However, the admitted art does disclose wherein the information transmitting apparatus is further arranged and constructed to evaluate bandwidth utilization status of the network based upon a comparison of a limit value and the number of blocks of data requested to be transmitted [0017, 0041, 0042 of Applicant's specification]. Calculating network bandwidth is a well known feature in the art as evidenced by the admitted art. Thus, it would have been obvious to one skilled in the art to incorporate the admitted art of evaluating bandwidth utilization into Gayman's invention to determine bandwidth utilization within his system.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

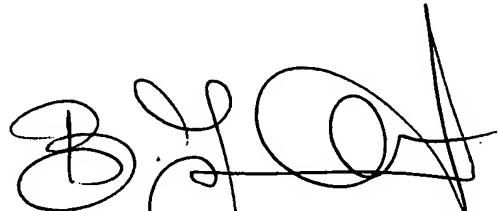
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Tuesday-Friday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC



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